

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

DATE 4/12/2023

DISTRICT JUDGE
Amos L. Mazzant, III

COURT REPORTER: Chris Bickham
COURTROOM DEPUTY: Keary Conrad

UNITED STATES OF AMERICA	
V.	CASE NUMBER 4:20CR212
DEBRA MERCER-ERWIN (1)	

ATTORNEY FOR GOVERNMENT	ATTORNEY FOR DEFENDANT
Ernest Gonzalez, Heather Rattan and Lesley Brooks, AUSA	Matthew Cyran, Joe White, Kate White

On this day, came the parties by their attorneys and the following proceedings were held in Sherman, TX:

TIME:	MINUTES: Jury Trial – Day 2
8:48 a.m.	Court in session. Court notes appearance of counsel.
8:48 a.m.	Court hears from Defendant's counsel, Kate White regarding issues with Government exhibits produced versus trial exhibit. Court hears further argument from Defendant's counsel, Joe White. Defendant's counsel objects to content, authentication, relevance, foundation. Court overrules the objection and fully admits the exhibits.
	Defendant's counsel inquires as to the status of the Courts <i>in camera</i> review of Machado documents. Court advises that they are not discoverable. Court will make it a sealed exhibit for appeal purposes.
	Defendant's counsel requests the Fred Machado's email unredacted be produced. Government advises that it was provided to defense in a redacted format redacting out only the senders of the email. Government agrees to provide an additional copy of that redacted email to the defense.
9:00 a.m.	Government AUSA Heather Rattan requests the defense be instructed regarding violating the motion in limine with comments regarding defendant's status. Court advises Defendant's counsel that it is a violation of the motion in limine and cautions counsel.
9:02 a.m.	Government AUSA, Ernest Gonzalez continues re-direct examination of Special Agent Jason Marshall.
9:05 a.m.	Bench conference.
9:07 a.m.	Government AUSA, Ernest Gonzalez continues re-direct.
9:33 a.m.	Defendant's counsel, Joe White begins re-cross examination.
10:20 a.m.	Jury excused for morning break.
10:23 a.m.	Court recess for break.
10:40 a.m.	Court re-convened. Jury seated.
10:40 a.m.	Defendant's counsel, Joe White continues re-cross examination.

10:42 a.m.	Defendant's counsel moves for the admission of Government's Exhibit 39. No objection. Government Exhibit 39 is admitted.
10:57 a.m.	Pass the witness.
10:57 a.m.	Government AUSA Ernest Gonzalez begins re-direct examination of SA Justin Marshall.
11:20 a.m.	Defendant's counsel begins re-cross.
11:25 a.m.	Defendant's counsel, Joe White offers Defendant's Exhibit 4G. No objection. Defendant's Exhibit 4G is admitted.
11:29 a.m.	Government AUSA Ernest Gonzalez begins re-direct examination of SA Justin Marshall.
11:34 a.m.	Defendant's counsel begins re-cross.
11:34 a.m.	Government AUSA Heather Rattan calls Grace Howell. Witness placed under oath.
11:35 a.m.	Bench conference.
11:40 a.m.	Government AUSA Heather Rattan begins direct examination of witness, Grace Howell.
12:06 p.m.	Jury excused for lunch.
12:07 p.m.	Government AUSA advises that they will be offering 25A, 25B, 25C, 25D, 25E, and 25F under Rule 1006 after the lunch break. Defendant objects to the exhibits being admitted to go back with the jury as improper.
12:09 p.m.	Ernest – redacted and unredacted of the document so court can see what was redacted.
12:11 p.m.	Court in recess.
1:19 p.m.	Court re-convened. Government AUSA Lesley Brooks advises the Court that the Parties have agreed for the Bank of America custodian to appear remotely if that is agreeable with the Court to testify as to Government Exhibits 45 and 75. Court grants request. Parties will provide contact information to Courtroom Deputy for arrangement of video appearance.
1:20 p.m.	Court advises that after further review of the email that it should be produced not defense unredacted. Government provides a copy to defense.
1:20 p.m.	Jury seated.
1:21 p.m.	Government AUSA Heather Rattan continues direct examination of witness, Grace Howell.
1:30 p.m.	Government offers Government Exhibits 25A, 25B, 25C, 25D, 25E, and 25F under 1006. Defendant objection and adopt the prior argument at the bench and the documents reference exhibits not admitted. Court overrules Defendant's objection. Government Exhibits 25A, 25B, 25C, 25D, 25E, and 25F are admitted.
1:45 p.m.	Government offers Government Exhibit 93. Defendant does not object to the exhibit being used as demonstrative only. Government Exhibit 93 accepted as demonstrative only.
3:17 p.m.	Jury excused for break.
3:18 p.m.	Court recess for 15 minutes.
3:33 p.m.	Government AUSA Heather Rattan continues direct examination of witness, Grace Howell.
4:58 p.m.	The <i>in camera</i> documents on Machado provided to Courtroom Deputy to put in a sealed envelope and make it part of the record for purposes of appeal.

5:00 p.m.	Court adjourned.
	Govt Exhibits Admitted: 25A, 25B, 25C, 25D, 25E, 25F, 39 Deft Exhibits Admitted: 4G Demonstrative Only Exhibits: Govt 93

DAVID O'TOOLE, CLERK

BY: Kearny Conrad
Courtroom Deputy Clerk